

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**23-CR-99-LJV-JJM**

v.

**REPLY TO RESPONSE**

SIMON GOGOLACK,

Defendant.

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The government argues that the defense has no right to discovery of evidence that the government has not relied on in detention hearings. The defense agrees. But Mr. Gogolack's motion to compel demonstrates with precise citations where and how the government has *already relied* on the evidence that Mr. Gogolack now seeks. That bell cannot be un-rung. Having now realized it would rather keep this information from the defense, the government cannot now decide to rely only on "already-produced material and the aforementioned jail calls." *See Gov. Resp. at 3 (Docket No. 100).*

And while the government points to the 90-day discovery deadline, the Court also "direct[ed] the government to provide discovery on a rolling basis, to the extent possible." (ECF No. 73). We know, for instance, that the medical examiner's report of Crystal Quinn was provided to the government in September of 2023. Six months later, the defense is still in the dark. Yet, the government wants to keep Mr. Gogolack caged based on its assertion that he was responsible for her death.

Mr. Gogolack is not trying to make an "end run" around the Court's discovery order; he is merely attempting to enforce the discovery orders already imposed. Aside from jail calls, none of the evidence proffered by the government and highlighted in the motion to compel has been

turned over. Mr. Gogolack requests that this Court order the government to produce the evidence that it has already relied on, and which it has asked this Court to rely on.

**DATED:** Buffalo, New York, March 22, 2024

Respectfully submitted,

**/s/ Jeffrey T. Bagley**

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